

## PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
Amarillo DIVISION

VINICIO J GARCIA

Plaintiff's Name and ID Number

MARK Michael

Place of Confinement

Requesting  
Jury  
TRIAL  
Constitutional issue  
under Rule 5.1

**2-21CV-207-2**  
CASE NO. \_\_\_\_\_  
(Clerk will assign the number)

v.

Counselor EVANS Bill Clements unit

Defendant's Name and Address

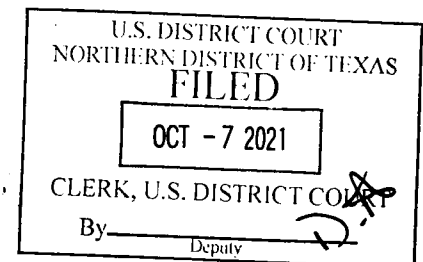
SGT Murphy Bill Clements unit

Defendant's Name and Address

CAPT JUDU Bill Clements unit

Defendant's Name and Address

(DO NOT USE "ET AL.")

**INSTRUCTIONS - READ CAREFULLY****NOTICE:**

**Your complaint is subject to dismissal unless it conforms to these instructions and this form.**

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACKSIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

**FILING FEE AND IN FORMA PAUPERIS (IFP)**

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or a initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

**CHANGE OF ADDRESS**

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE OF THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

**I. PREVIOUS LAWSUITS:**

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ☒ YES ☐ NO

B. If your answer to "A" is "yes", describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: 8/30/2017
2. Parties to previous lawsuit:  
Plaintiff(s) VINICIO J GARCIA  
Defendant(s) DARRYL GLENN et al
3. Court: (If federal, name the district; if state, name the county.) US District Judge  
US District Northern District of Texas Amarillo Division
4. Cause number: 2:17-CV-164
5. Name of judge to whom case was assigned: JUDGE M. KACSMARYK
6. Disposition: (Was the case dismissed, appealed, still pending?) APPEALED
7. Approximate date of disposition: Filed writ of certiorari

II. PLACE OF PRESENT CONFINEMENT: MARK Michael Tennessee Colony, TX

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? ✓ YES    NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: VINICIO Jesus GARCIA

MARK Michael Unit 9601 Spur 591 2664 FM  
2054 Tennessee Colony, TX 75886

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Counselor EVANS ONLY address I know  
is Bill Clements 9601 Spur 591 Amarillo, TX

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Lied at Disciplinary hearing Due Process violation

Defendant #2: SGT Murphy Bill Clements 9601  
Spur 591 Amarillo, TX

Briefly describe the acts(s) or omission(s) of this defendant which you claimed harmed you.

Lied false accusation

Defendant #3: CAPT JUDD Bill Clements 9601  
Spur 591 Amarillo, TX

Briefly describe the acts(s) or omission(s) of this defendant which you claimed harmed you.

Due Process violation at Disciplinary hearing

Defendant #4: Guard Mitchell Bill Clements  
9601 Spur 591 Amarillo, TX

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Guard deliberately pushes his hand against testicles  
on more than one occasion

Defendant #5: CAPT FLOWERS Bill Clements  
9601 Spur 591 Amarillo, TX

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Lied at Disciplinary hearing gave false case  
List attached

## V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

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## VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

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## VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

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B. List all TDCJ-CID identificaiton numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

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## VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ☐ YES ☐ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): \_\_\_\_\_

2. Case number: \_\_\_\_\_

3. Approximate date sanctions were imposed: \_\_\_\_\_

4. Have the sanctions been lifted or otherwise satisfied? ☐ YES ☐ NO

C. Has any court ever warned or notified you that sanctions could be imposed? YES NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): \_\_\_\_\_
2. Case number: \_\_\_\_\_
3. Approximate date warning was issued: \_\_\_\_\_

Executed on: 9/28/2021  
DATE

Vincent J. Garcia  
(Signature of Plaintiff)  
1828198

**PLAINTIFF'S DECLARATIONS**

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 28<sup>th</sup> day of September, 20 21.  
(Day) (month) (year)

Vincent J. Garcia  
(Signature of Plaintiff)  
1828198

**WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.**

UNITED STATES DISTRICT COURT NORTHERN DISTRICT  
OF TEXAS AMARILLO DIVISION

LISTING OF PREVIOUS LAWSUIT

B FROM PAGE (2) OF FORM PROVIDED

1) APPROXIMATE DATE OF LAWSUIT  
Amended filed NOV 22, 2020

2) Parties to previous LAWSUIT  
Plaintiff VINICIO J GARCIA  
Defendants EMILY REED et al

3) US District Court Northern District  
Amarillo Division

4) CAUSE # USDC 2:20-CV-007

5) NAME OF JUDGE TO WHOM CASE WAS  
ASSIGNED

US DISTRICT JUDGE MATTHEW J. KACSMARYK

6) DISPOSITION: Pending

UNITED STATES DISTRICT COURT NORTHERN DISTRICT  
OF TEXAS AMARILLO DIVISION

III EXHAUSTION OF GRIEVANCE PROCEDURES  
I DO NOT HAVE COPIES OF GRIEVANCES TO  
PROVIDE FOR THE COURT IN THE FILING OF  
THIS CIVIL COMPLAINT §1983

I am listing the dates filed and individuals  
named in grievance and request that  
copies be provided by TDCJ

I am currently indigent and proceeding  
pro se

GRIEVANCE # 2020023222 STEP(1) filed  
OCT 16, 2019 STEP(2) Dec 26, 2019 AGAINST  
SGT MURPHY counselor EVANS CAPT JUDD

THE Following Grievances are all related  
to Guard Mitchell incident of deliberately  
pushing his hand against my testicles twice  
on video

Grievance # 2020029569 STEP(1) filed  
OCT 31, 2019 STEP(2) filed Dec 10, 2019 against  
Guard Mitchell

Grievance # 2020034690 STEP(1) filed NOV 12, 2019  
STEP(2) filed JAN 5 2020 against  
CAPT JUDD COUNSELOR EVANS CAPT FLOWERS

GRIEVANCE # 2020033229 STEP(1) filed NOV 8, 2019  
WARDEN Richerson S. Patton denies Grievance

Grievance # 2020037977 # 202003819  
are refused by Grievance officers Patton and Turner

UNITED STATES DISTRICT COURT NORTHERN DISTRICT  
OF TEXAS AMARILLO DIVISION

CONTINUED LISTING OF GRIEVANCES FOR 1983

THE FOLLOWING GRIEVANCES ARE TIED TO LT WHALEN  
INCIDENT INVOLVING ATTENDING A RELIGIOUS SERVICE

GRIEVANCE # 2020072624 STEP (1) FILED FEB 3, 2020

STEP (2) FILED JUNE 10, 2020 LT WHALEN ASST

WARDEN JOE TOVAR

GRIEVANCE # 2020075841 STEP (1) FILED FEB 8, 2020

STEP (2) FILED APRIL 2, 2020 AGAINST CAPT RAINES

LT WHALEN ASST WARDEN JOE TOVAR

THE FOLLOWING GRIEVANCES ARE TIED TO

GRIEVANCE # 2020034690

WHERE PATTON AND TURNER REFUSE TO

PROCESS GRIEVANCES AGAINST PREA

REPRESENTATIVE

GRIEVANCE # 2020037977 FILED NOV 18, 2019

AND GRIEVANCE # 2020038189

UNITED STATES DISTRICT COURT NORTHERN DISTRICT  
OF TEXAS AMARILLO DIVISION

CONTINUED LISTING OF CIVIL COMPLAINT § 1983

IV. Parties to this suit in all instances the  
ONLY address I have is Bill Clements 9601  
SPUR 591 Amarillo, TX

Defendant #6 CAPT RAINES Due Process  
Violation at hearing Biased BY ignoring  
statements of Lt Whalen

Defendant #7 Lt Whalen lied at Disciplinary  
hearing Blatant disregard for video evidence

Defendant #8 ASST WARDEN JOE  
TOVAR - Blatant disregard for video evidence  
Lied on Grievance Response

Defendant #9 Grievance officer Patten AIDED  
and abetted due process violation

Defendant #10 Grievance officer Turner Aided  
And Abetted due process violation

Defendant #7 Lt Whalen - Lied at hearing  
in face of video evidence took Bible  
exposed me to harm by taking JACKET in  
inclement weather

Defendant #11 WARDEN Richardson aided  
and abetted Due Process violation

UNITED STATES DISTRICT COURT NORTHERN DISTRICT  
OF TEXAS AMARILLO DIVISION

CONTINUED LISTING OF CIVIL COMPLAINT § 1983

V. STATEMENT OF THE CLAIM

All cases occurred at the Bill Clements UNIT  
All Disciplinary hearing violations occurred  
IN ONE Building. ALL allegations are supported  
BY video evidence which was Requested be  
Preserved as evidence for legal recourse

AT hearing on OCT 9+10 2019 SGT MURPHY  
lied about threatening him - CAPT JUDD  
Refused to let me introduce video evidence

AT hearing on NOV 1, 2019 CAPT Flowers and  
counselor EVANS lie that I am not on video  
when I state that Guard Mitchell touched  
my Testicles - I am in EVANS counselor  
section Bldg I on that date OCT 29, 2019  
making a statement CAPT JUDD ignores  
evidence and is Biased I ask for Preservation  
of video

AT hearing of ~~Feb~~ Feb 3, 2020 Lt Whalen lies  
despite video evidence - CAPT Raines ignores  
Whalen admitting he didn't read LAY-IN

UNITED STATES DISTRICT COURT NORTHERN District  
of TEXAS Amarillo Division

V. STATEMENT of the Claim

Grievance Officers PATTON and Turner refused to  
Process my Grievance against PREA for  
not Responding to my sexual harassment  
complaint against Mitchell

ASST WARDEN TOVAR ignores video evidence

I am denied the Right to ~~APPLY~~ for  
Religious Schooling. I can not attend  
certain Religious Services. I am denied  
rights under PREA

I am exposed to retaliation and intimidation

I am have my Bible and Property taken

UNITED STATES DISTRICT COURT NORTHERN DISTRICT  
Office of the CLERK

205 S.E. 5<sup>th</sup> AVE Rm 133  
AMARILLO, TX 79101

VINICIO J GARCIA  
1828198

MARK MICHAEL  
2664 PM 2004

Tennessee Colony, TX

CONFIRMATION

REQUEST SEPT 28, 2021

IN RE: CIVIL COMPLAINT §1983

ENCLOSED are the following

SELF Addressed STAMPED ENVELOPE

TWO COPIES of complaint 5 Pages

of standard form Plus attached sheets

numbered 1-6 and 1A-6A for courts

convenience They include attached

sheets of Part III B PART IV and

PART 5

3 COPIES of CONFIRMATION REQUEST

I ask the CLERK File STAMP Plaintiff's

COPY of CONFIRMATION REQUEST

and Return in SASE

Thank You

6 month STATEMENT enclosed

The documents were Placed in a sealed  
envelope and Placed in ISE for LAW

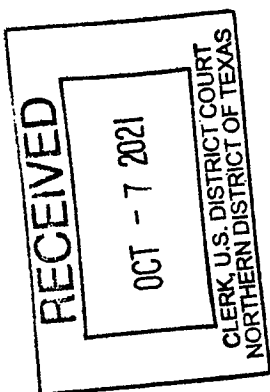
Library to sent Postage PrePaid to  
the afore mentioned CLERK

I swear under Penalty of Perjury the  
above statements are true and correct

executed on OCT 1, 2021 Vinicio J Garcia  
1828198



VINICIO J GARCIA  
18282918  
MARK MICHAEL  
2664 PM 2054  
Tennessee Colony, TX 75886



LEGAL  
MAIL

Office of the Clerk  
UNITED STATES District Court  
NORTHERN District  
205 S.E. 5<sup>TH</sup> AVE Room 133  
AMARILLO, TX 79101